

REMARKS

The above-identified patent application has been amended and reconsideration and reexamination are requested.

The examiner rejected claims 1-20 under 35 U.S.C. 102(b) as being unpatentable over Mosler et al. (US 6,304,858). Applicant has amended the claims, canceled claims 13 and 15, and added claims 21-24.

Claim 1 has been amended to recite “determining that a position calls for either a cash based margin protocol or an asset based margin protocol” and “determining margin requirements according to the determined margin protocol.” As amended, claim 1 is allowable over the reference cited.

Claim 1 is directed to a method of clearing transactions on an electronic exchange. Mosler does not disclose nor suggest “determining that a position calls for either a cash based margin protocol or an asset based margin protocol.” As understood, Mosler is directed solely to a method using a cash based margin protocol. (col. 4, lines 46-61, col. 12, lines 1-29, col. 30, lines 43-52). Mosler makes no mention of an asset based margin protocol. An asset based margin protocol is beneficial because it can reduce the costs of participating in futures markets without compromising risk management. Therefore, Mosler cannot be said to teach the step of “determining that a position calls for either a cash based margin protocol or an asset based margin protocol.” Inherently, Mosler neither describes nor suggests determining margin requirements according to the determined margin protocol, because Mosler does not determine which protocol is used.

Claim 12, which is a computer program product claim with similar content to claim 1, is allowable for the reasons discussed in claim 1. Claim 20, which is a system claim with similar content to claim 1, is allowable for the reasons discussed in claim 1.

Claims 2-11, 14, and 16-19, which depend directly or indirectly on claims 1 or 12, are allowable for at least the reasons discussed in claim 1. Moreover, these claims add additional distinctive features. Claims 2 and 3 serve to distinguish between use of two margin protocols, which is not suggested in Mosler. Claim 2 for instance recites if a position calls for a cash

margin protocol, the method includes sending to subscribers or subscriber depository or guaranteeing banks debits and/or credits; and updating the resulting balances in, each subscriber's account. Claim 3 on the other hand adds the feature of if "a position calls for an asset based margin protocol" the method further includes "disseminating position information but no daily pays or collects will take place so long as sufficient assets are already identified." The distinctions between claims 2 and 3 and claim 3 on its own further highlight the use of an asset based margin protocol in a trading system.

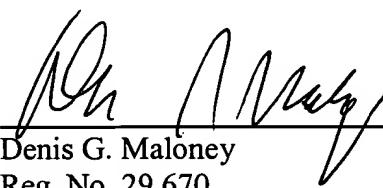
Claims 21-24 are new and add patentable matter.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: Sept 27, 2004


Denis G. Maloney
Reg. No. 29,670

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906